

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In Re:)	Chapter 11
)	
W. R. Grace & Co., et al. ¹ ,)	Case No. 01-01139 (JKF)
)	Jointly Administered
Debtors.)	
)	Re: Docket No. 15156
)	Hearing Date: Currently April 23-25, 2007
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**ANDERSON MEMORIAL HOSPITAL AND ANDERSON CLAIMANTS'
PRE-TRIAL BRIEF WITH RESPECT TO THE APRIL 23-25, 2007
TRIAL ON PRODUCT IDENTIFICATION OBJECTIONS**

I. Claims Objections Scheduled for Adjudication

On September 2, 2005, the Debtors' filed their 15th Omnibus Objection to asbestos property damage claims, objecting to thousands of claims on specific bases, including lack of

¹ The Debtors consist of the following 62 entities: W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W. R. Grace & Co.-Conn., A-I Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgracc, Inc., Coalgracc II, Inc., Creative Food 'N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp, Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B 11 Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W. R. Grace Capital Corporation, W. R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc., Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Ins., MICA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Curving, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, H-G Coal Company.

product identification (Objections C-3(c) – (f)). In July of 2006, the Debtors submitted a proposed CMO with respect to the 15th Omnibus Objections which sought to schedule claim objections to be heard in this Court in three proceedings (Methodology, Limitations and Product ID, and Hazard). Attached to the Debtors proposed CMO was a list of property damage claims and specific objections prepared by the Debtors indicating the specific claims and specific objections that would be adjudicated in the PD Claims allowance proceedings. The purpose of the attached list of claims and specific objections was to provide specific notice to the Court and the claimants of which specific objections the Debtors sought to adjudicate.

On August 31, 2006, this Court entered a CMO, and then an amended CMO on October 13, 2006 after a number of individual claimants filed objections. These CMO's entered by this Court and served upon all claimants specifically provided that

Certain specific objections to PD Claims will be adjudicated on **April 23, 24 and 25, 2007, commencing at 9:00 a.m., Eastern time**, in Pittsburgh, Pennsylvania. The objections that will be adjudicated as to these PD Claims are those asserted in the 15th Omnibus Objection regarding product identification and limitations periods (specifically C-1 through C-4, D-1 through D-6, F-1 and F-4 and F-5) ***These claims are listed on Exhibit A hereto.*** The pre-trial schedule for these objections is set forth in the Schedule attached as Exhibit B to this Order.

October 13, 2006 Order, ¶2 (Dk. No. 13406) (bold in original, italics supplied). According to Exhibit A to the Scheduling Order, the following remaining Anderson claims are scheduled for Product Identification Objections:

1. US Claims

Claimant	State	Claim No.	Product ID Evidence
Mission Towers a.k.a Foxridge Towers	KS	10516	EXS SR-446 to SR-447 Mono-kote Job Information
Bethesda Rehabilitation Hospital	MN	10523	EXS SR-532 to SR-533 Mono-kote Job Lists
New Hanover Regional Medical Center	NC	10672	EX SR-520 List of W. R. Grace Jobsites by State
Pierre Laciède	MO	10696	EX SR-411 Letter re: Use of direct-to-steel fire protection on building
St. Joeseph's Hill Infirmary	MO	10700	EXS SR-506 to SR-507 Mono-kote Project Report and Letter re: Mono-kote Direct-to-Steel Fireproofing for Building
Santa Teresa Medical Office	CA	11018	EX SR-412 to SR-413 Mono-kote Job Listing
John Muir Medical Center	CA	11026	EX SR-488 Letter re: Mono-kote Job List Ex. SR-488(a) Hazard Survey Report
Fort Smith Convention Center	AR	11039	EX SR-514 W. R. Grace List of State Jobsites
Gundersen Lutheran Medical Center	WI	11124	EXS SR-518 to SR-519 W. R. Grace & Co. memo and letter referencing Mono-kote Jobsites
Baptist Medical	AR	11128	EXS SR-327 to SR-401 W. R. Grace & Co. Sales Records for Bags of Mono-kote
Abbeville General Hospital	LA	11133	EX SR-508 Letter re: Mono-kote Job List
Virtua Health	NJ	11226	EX SR-535 Letter re: Mono-kote Installations
McKenzie Hospital	OR	11262	EX SR-410 Mono-kote Invoice
Virtua West	NJ	11389	EX SR-536 Letter re: Mono-kote Installations
Dodge County Hospital	GA	11550	EX SR-529 Invoice

2. Canadian Claims

Claimant	Prov.	Claim No.	Product ID Evidence
Hudson's Bay Company – Zellers 347	Ontario	11618	EX SR-287 Expert Report of Dr. Donald Pinchin
Hamilton District School Board – Pauline Johnson	Ontario	11678	EX SR-272 Expert Report of Dr. Donald Pinchin
Calgary Board of Education- Southwood Elem.	AL	12293	EX SR-276 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Bloor Collegiate Institute	Ontario	12303	EX SR-254 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Deer Park	Ontario	12304	EX SR-259 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Dewson	Ontario	12305	EX SR-260 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Elm Lea Jr.	Ontario	12306	EX SR-290 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Fairmount	Ontario	12307	EX SR-256 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Humberside	Ontario	12308	EX SR-249 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Monarch Park	Ontario	12310	EX SR-242 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Oakwood Collegiate	Ontario	12311	EX SR-247 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Old Administration	Ontario	12312	EX SR-266 Expert Report of Dr. Donald Pinchin

Toronto District School Board – Perth Ave. Jr.	Ontario	12313	EX SR-262 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Western Tech	Ontario	12316	EX SR-255 Expert Report of Dr. Donald Pinchin
Toronto District School Board – Withrow	Ontario	12317	EX SR-257 Expert Report of Dr. Donald Pinchin
William Osler Health Centre	Ontario	12322	EX SR-268 Expert Report of Dr. Donald Pinchin
Calgary Board of Education- Sir James Lougheed	AL	12331	EX SR-277 Expert Report of Dr. Donald Pinchin
City of Vancouver – Parkade	BC	12346	EX SR-250 Expert Report of Dr. Donald Pinchin
Calgary Board of Education- Colonel Irvine Jr. High	AL	12348	EX SR-279 Expert Report of Dr. Donald Pinchin
Calgary Board of Education- William Aberhart	AL	12443	EX SR-253 Expert Report of Dr. Donald Pinchin
Canadian Imperial Bank of Commerce	Newfoundland	12536	EX SR-238 Expert Report of Dr. Donald Pinchin

II. Nature of Anderson's Product Identification Evidence

Anderson will offer two different types of proof in support of Product Identification.

A. Grace Historical Sales Records

The first type of proof is direct proof through the Debtors' own historical sales records. These records are independently admissible pursuant to Rule 901, FRE as self-authenticating documents. As the Court will see when it examines this evidence, these documents self-authenticating because they have distinctive characteristics which are unique to Grace internal records; they demonstrate a consistent internal pattern and methodology and

are the types of records that a company like W. R. Grace would generate to track and document sales and shipment of products. Moreover, all of these sales records are part of a compilation of ancient documents (over twenty years old) assembled by the Debtors through the years and maintained in its document repository of corporate documents for asbestos litigation.

Anderson will offer these records to establish by a preponderance of the evidence that asbestos-containing products designed, manufactured and sold by the Debtors' were utilized in the construction of each claimants' building. Based upon the claim in question, some of these records will show that the Debtors shipped or sold asbestos-containing materials to the building jobsite of the claimant's building. Some of these records will show that the Debtors' internally acknowledged that their asbestos-containing products were being installed in specific buildings of the claimants. Other records will show that the Debtors' used the claimants' buildings as references or examples of jobs in which their asbestos-containing surfacing materials were used. These references are contained in sales literature, advertisements or examples of prior applications of these products.

B. Expert Opinion of Dr. Donald Pinchin

For certain Canadian claimants, the Plaintiffs' will offer the expert opinion of Dr. Donald Pinchin as evidence of product identification. Dr. Pinchin is the leading expert in Canada with respect to asbestos-containing materials in buildings and has inspected and surveyed buildings with asbestos-containing materials for over 40 years. Dr. Pinchin is well acquainted with the Debtors' fireproofing products and worked extensively with the reformulation of the Debtors' product, and is also familiar through extensive experience, with the asbestos-containing fireproofing products that were available on the Canadian market

through the relevant time frame. Through his own work and experience, Dr. Pinchin has knowledge about the process used to apply the Debtors' fireproofing product in buildings, the constituents of the Debtors' fireproofing product, the uses and location of the Debtors' asbestos-containing fireproofing in buildings and the absence of any similarly constituted products in the Canadian market.

Dr. Pinchin is expected to testify, based upon his own inspection and review of testing materials from the claimants' buildings, that the asbestos-containing fireproofing materials in claimants' buildings were manufactured and sold by the Debtors, and that they were Mono-kote MK-3.

III. Mode of Presentation of Evidence

Anderson anticipates publishing claim specific documentary evidence in support of Product Identification as each specific claim is called. Anderson will also present and publish summaries of the documentary evidence and demonstrative aides for the convenience of the Court.

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Anderson further anticipates calling Dr. Pinchin to testify and directly present his evidence to the Court and will most likely publish summaries and use demonstrative aides with Dr. Pinchin to allow him to efficiently present his evidence regarding all twenty-one Canadian claims scheduled to be adjudicated in this PID proceeding.

Respectfully submitted,

DATED: April 13, 2007

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